



# **JOINT MEETING OF THE MILPITAS CITY COUNCIL & SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY**

## **AGENDA**

**TUESDAY, NOVEMBER 21, 2017**

**455 EAST CALAVERAS BOULEVARD, MILPITAS, CA**

**5:00 P.M. (CLOSED SESSION)**

**7:00 P.M. (PUBLIC BUSINESS)**

*Vice Mayor Grilli will participate by telephone conference  
from Mountainside Inn, 333 S. Davis St., Telluride, CO*

## **SUMMARY OF CONTENTS**

- I. CALL TO ORDER JOINT MEETING by Mayor and ROLL CALL by City Clerk**
- II. ADJOURN TO CLOSED SESSION (5:00 PM)**
  - (a) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**  
Pursuant to California Government Code Section 54957.6  
City Negotiator: Tina Murphy  
Employee Groups: Milpitas Employees Association, International Association of Fire Fighters, and  
unrepresented employees  
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
  - (b) PUBLIC EMPLOYEE APPOINTMENT/HIRING**  
Pursuant to California Government Code Section 54957  
Title of position to be filled: City Manager
  - (c) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**  
Pursuant to California Government Code section 54956.9(d)(1)  
Tom Williams v. City of Milpitas, et al. - Santa Clara County Superior Court Case No. 17CV309235
  - (d) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**  
Pursuant to California Government Code section 54956.9(d)(1)  
First Amendment Coalition v. City of Milpitas – Santa Clara County Superior Court Case No.  
17CV310994
  - (e) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**  
Pursuant to California Government Code section 54956.9(d)(1)  
Tom Williams v. City of Milpitas, et al. - American Arbitration Case No. 01-17-0003-5823
  - (f) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**  
Pursuant to California Government Code section 54956.9(d)(4)
- III. CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session, if required pursuant to  
Government Code Section 54957.1, including the vote or abstention of each member present

**IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**

**V. INVOCATION (Councilmember Phan)**

**VI. PRESENTATION**

- Recognition to organizations for fundraising effort for Philippines hospital

**VII. PUBLIC FORUM**

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Those in the audience are invited to address City Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. However, the Council may instruct the City Manager to place the item on a future meeting agenda.

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**VIII. ANNOUNCEMENTS**

**IX. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**

**X. APPROVAL OF AGENDA**

**XI. CONSENT CALENDAR**

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Consent Calendar items are considered to be routine and will be considered for adoption by one motion of the City Council. The City Manager will indicate any matters not eligible for consent. City Councilmembers shall either (a) state the agenda items they want placed on the Consent list, or (b) declare that they do not have any items for consent. From the dais, Council will then vote to approve all items going onto Consent Calendar and move to approve the listed items in one motion.

Any items not placed on Consent Calendar will be discussed in the order in which they appears on the agenda.

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**1. Accept Schedule of Meetings/City Council Calendars - November and December 2017**

**2. Approve City Council Meeting Minutes of November 4 and 7, 2017 (Staff Contact: Mary Lavelle, 408-586-3001)**

**XII. UNFINISHED BUSINESS**

**3. Discuss City of Milpitas Commissions and Process for Commission Appointments (Staff Contact: Steve Pangelinan, 408-586-3050)**

**4. Review List for City Council of Items Due Back for Response from City Staff (Staff Contacts: Steve Pangelinan, 408-586-3051 and Mary Lavelle, 408-586-3001)**

**5. Per Request of Councilmembers Nuñez and Phan, Consider Approving More than 4 Hours of Staff Time to Return to Council with Plan to Preserve Industrial Land in the City (Contacts: Councilmember Nuñez, 408-586-3023 and Councilmember Phan, 408-586-3032)**

**6. Waive the First Reading and Introduce Ordinance No. 48.21 Amending Title V, Chapter 200 of the Milpitas Municipal Code Regarding Solid Waste Management (Staff Contact: Steve Erickson, 408-586-3301)**

**XIII. REPORTS**

**7. Per Request of Mayor Tran, Consider Approving More than 4 Hours of Staff Time to Return to Council with a Comprehensive Homeless Strategy (Contact: Mayor Tran, 408-586-3029)**

8. **Per Request of Councilmember Phan, Consider Approving More than 4 Hours of Staff Time to Study the Feasibility of Establishing Enhanced Infrastructure Financing Districts (EIFDs) within Milpitas and to Return to Council with a Report (Staff Contact: Will Fuentes, 408-586-3111)**
9. **Per Request of Councilmember Nuñez, Receive a Report on the Process of Labor Negotiations in the City of Milpitas (Contact: Councilmember Nuñez, 408-586-3023)**
10. **Per Recommendation of the City Council Facilities Naming Subcommittee, Approve the Name of a New Park in the Transit Area (Staff Contact: Renee Lorentzen, 408-586-3409)**

#### **XIV. NEW BUSINESS**

11. **Receive Report on City of Milpitas Healthy Cities Dashboard (Staff Contacts: Tina Murphy, 408-586-3086 and Renee Lorentzen, 408-586-3409)**

#### **XV. ORDINANCE**

12. **Waive the Second Reading and Adopt Ordinance No. 296 Authorizing the Implementation of a Community Choice Aggregation Program for Milpitas (Staff Contact: Edesa Bitbadal, 408-586-3052)**

#### **XVI. RESOLUTIONS**

13. **Adopt Six Resolutions Authorizing the Operation of Property Assessed Clean Energy Financing Programs Within the City of Milpitas, Authorize the City Manager to Execute Agreements with Four Programs and Other Documents Necessary to Implement Property Assessed Clean Energy Financing Programs, and Find that the Actions are Exempt from Environmental Review under CEQA Guidelines Section 15378(b)(4) (Staff Contact: Edesa Bitbadal, 408-586-3052)**
14. **Adopt a Resolution Authorizing Issuance, Sale and Delivery of Wastewater Revenue Refunding Bonds for the Purpose of Refinancing the Costs of Acquiring and Constructing Wastewater System Improvement Projects, Approving an Official Statement and Related Matters (Staff Contact: Will Fuentes, 408-586-3111)**
15. **Adopt a Resolution Granting Final Acceptance of Public Improvements and Releasing Performance Bond for the Apex Apartment Project Located at 1102 South Abel Street by Milpitas Centria West, LLC, Tract No. 9773, Project No. 2583 (Staff Contact: Steve Erickson, 408-586-3301)**
16. **Adopt a Resolution Granting Initial Acceptance, Release the Performance and Payment Bonds and Authorize Acting City Engineer to Issue the Notice of Final Acceptance After the One-Year Warranty Period for the Daniel Court Water Main and Services Replacement, Projects No. 7110 and No. 7131 (Staff Contact: Steve Erickson, 408-586-3301)**

#### **XVII. AGREEMENTS**

17. **Approve and Authorize the City Manager to Execute a Consultant Services Agreement with Bartle Wells Associates to Conduct a Comprehensive Water Rate and Cost of Service Study for the Amount Not to Exceed \$45,000 (Staff Contact: Tony Ndah, 408-586-2602)**

18. **Approve and Authorize the City Manager to Execute a Consultant Services Agreement with Crocker & Crocker for the Water Rate Community Engagement Program for the Amount Not to Exceed \$40,000 (Staff Contact: Tony Ndah, 408-586-2602)**
19. **Consider the Subdivision Improvement Agreement, the Public Street Maintenance Agreement and the Fee Reimbursement Agreement for a 199-unit Senior Assisted Living Residential Development at 1504-1620 South Main Street by Milpitas Phase I, LP (Staff Contact: Steve Erickson, 408-586-3301)**
20. **SUCCESSOR AGENCY  
Authorize the Executive Director of the Successor Agency of the Former Milpitas Redevelopment Agency to Execute a Purchase & Sale Agreement with the Milpitas Community Museum for Property at 230 N. Main Street (APNs 028-34-001 through 028-34-094) (Staff Contact: Jane Corpus, 408-586-3125)**

**XVIII. REPORTS OF MAYOR & COUNCILMEMBERS – from the assigned Commissions, Committees and Agencies**

**XIX. ADJOURN JOINT MEETING**

**KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035  
e-mail: [cdiaz@ci.milpitas.ca.gov](mailto:cdiaz@ci.milpitas.ca.gov) / Phone: 408-586-3040

*The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) by selecting the Milpitas Municipal Code link.*

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3<sup>rd</sup> floor 455 E. Calaveras Blvd., Milpitas and on the City website.

All City Council agendas and related materials can be viewed online here:  
[www.ci.milpitas.ca.gov/government/council/agenda\\_minutes.asp](http://www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp) (select meeting date)

**APPLY TO SERVE ON A CITY COMMISSION**

Current vacancies on: Arts Commission  
Bicycle Pedestrian Advisory Commission  
Community Advisory Commission  
Economic Development Commission  
Emergency Preparedness Commission  
Parks, Recreation & Cultural Resources Commission  
Recycling & Source Reduction Advisory Commission  
Sister Cities Commission; Library Commission  
Telecommunications Commission  
Youth Advisory Commission

Commission application forms are available online at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) or at Milpitas City Hall.  
Contact the City Clerk's office at 408-586-3003 for more information.

*For assistance in the following languages, you may call:*

Đối với Việt Nam, gọi 408-586-3122

对中国人来说，请用 408-586-3263

Para sa Tagalog, tumawag sa 408-586-3051

Para español, llame 408-586-3232

*If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 408-586-3001 or send an e-mail to [mlavelle@ci.milpitas.ca.gov](mailto:mlavelle@ci.milpitas.ca.gov) prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings.*

## **AGENDA REPORTS**

### **XII. UNFINISHED BUSINESS**

3. **Discuss City of Milpitas Commissions and Process for Commission Appointments (Staff Contact: Steve Pangelinan, 408-586-3050)**

**Background:** Councilmembers have expressed an interest to discuss the 14 Council-appointed City of Milpitas Commissions, and the process for appointing residents to serve as voting Commissioners and Alternate Members on the Commissions.

**Recommendation:** Discuss City Commissions and process of appointments. Direct staff, as requested.

**Attachments:**

- a) Directory of Local Officials (roster of members)
- b) Commission Application

4. **Review List for City Council of Items Due Back for Response from City Staff (Staff Contacts: Steve Pangelinan, 408-586-3051 and Mary Lavelle, 408-586-3001)**

**Recommendation:** Review list (provided in agenda packet) and provide additional input on the draft document, prepared by City Clerk for the Council.

**Attachment:** List of Items requested by City Council

5. **Per Request of Councilmembers Nuñez and Phan, Consider Approving More than 4 Hours of Staff Time to Return to Council with Plan to Preserve Industrial Land in the City (Contacts: Councilmember Nuñez, 408-586-3023 and Councilmember Phan, 408-586-3032)**

**Recommendation:** Consider request and if desired, approve more than four hours of staff time toward a plan to preserve industrial land in the City of Milpitas.

**Attachment:** None

6. **Waive the First Reading and Introduce Ordinance No. 48.21 Amending Title V, Chapter 200 of the Milpitas Municipal Code Regarding Solid Waste Management (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** The Milpitas Municipal Code specifies requirements related to Solid Waste Management. On December 1, 2017, a franchise agreement with the City's new solid waste collector, Milpitas Sanitation, Inc. will commence. The Municipal Code is proposed to be revised to correlate the new solid waste provisions which become effective by the contract's start date of December 1.

**Fiscal Impact:** None. There is no fiscal impact to the proposed Ordinance adoption.

**Recommendation:** Following a reading of the title by the City Attorney, move to waive the first reading beyond the title and introduce Ordinance No. 48.21 to amend Chapter 200 of Title V of the Milpitas Municipal Code regarding solid waste management.

**Attachment:** Ordinance No. 48.21

### **XIII. REPORTS**

7. **Per Request of Mayor Tran, Consider Approving More than 4 Hours of Staff Time to Return to Council with a Comprehensive Homeless Strategy (Contact: Mayor Tran, 408-586-3029)**

**Recommendation:** Consider Mayor's request and if desired, approve more than four hours of staff time toward a plan for a comprehensive homeless strategy for City of Milpitas.

**Attachment:** None

8. **Per Request of Councilmember Phan, Consider Approving More than 4 Hours of Staff Time to Study the Feasibility of Establishing Enhanced Infrastructure Financing Districts (EIFDs) within Milpitas and to Return to Council with a Report (Staff Contact: Will Fuentes, 408-586-3111)**

**Background:** At the November 4 City Council Budget Education Workshop, Councilmember Phan discussed the use of Enhanced Infrastructure Financing Districts (EIFDs) per Senate Bill (SB) 628 as a means to pay for infrastructure needs within Milpitas. He wishes to request more than 4 hours of staff time to study the feasibility of establishing EIFDs within Milpitas.

**Fiscal Impact:** Staff time not used for other purposes and associated costs.

**Recommendations:** Authorize staff to spend more than four hours of staff time to study the feasibility of establishing Enhanced Infrastructure Financing Districts (EIFDs) within the City of Milpitas and return to Council with a report.

**Attachment:** None.

9. **Per Request of Councilmember Nuñez, Receive a Report on the Process of Employee Labor Negotiations in the City of Milpitas (Contact: Councilmember Nuñez, 408-586-3023)**

**Background:** City staff will provide information to the Mayor and City Council at the meeting regarding the process for municipal employee labor negotiations in the City of Milpitas.

**Recommendation:** Receive report from city staff on labor negotiation process.

**Attachment:** None.

10. **Per Recommendation of the City Council Facilities Naming Subcommittee, Approve the Name of a New Park in the Transit Area (Staff Contact: Renee Lorentzen, 408-586-3409)**

**Background:** The Facilities Naming Subcommittee was formed on October 26, 2015 to review and recommend the naming of City streets, parks and facilities for final City Council approval. With input from the Parks, Recreation and Cultural Resources Commission, the subcommittee has reviewed and recommended one park name for final City Council approval.

The members of the Subcommittee recommend the Council authorize naming a new City park in the Transit Area Specific Plan area on Expedition Drive as the "Augustus Rathbone Park." Augustus Rathbone was the first storekeeper in Milpitas in the 19<sup>th</sup> century and was the first to open a saloon on the famous Campbell's Corner site (at current Main and Serra intersection).

Augustus Rathbone is on the approved “Milpitas Historical Names” naming list and per the Council Naming Subcommittee, meets the City Streets, Parks and Facilities Naming Standard Operating Procedure Criteria, 1.C and 1.D:

- c. Historical or cultural significance: the name of a historical figure can be considered if the figure had a significant and extraordinary historical influence on the area, state, national or international level;
- d. The name of any person or family that has made a significant impact in the community and/or in development of the street, park, facility;

**Fiscal Impact:** None.

**Recommendation:** Per City Council Facilities Naming Subcommittee, move to approve naming a new park in the Transit Area as the “Augustus Rathbone Park.”

**Attachments:**

- a) Meeting Minutes of the 11/08/17 Council Facilities Naming Subcommittee
- b) List of Approved Names

#### **XIV. NEW BUSINESS**

**11. Receive Report on City of Milpitas Healthy Cities Dashboard (Staff Contacts: Tina Murphy, 408-586-3086 and Renee Lorentzen, 408-586-3409)**

**Background:** In 2016, the Santa Clara County Department of Public Health, in partnership with the Cities Association of Santa Clara County, launched the Santa Clara County Healthy Cities Initiative (HCI) to communicate and acknowledge work that cities and towns in Santa Clara County are doing to promote health.

Part of the Healthy Cities initiative is sharing the county-wide benchmark policies and strategies on health related themes, including Active and Safe Communities, Healthy Food and Beverage Environments, Tobacco-Free Communities, and Cross-Cutting Strategies. The City of Milpitas received the 2017 City of Milpitas Healthy Cities Dashboard on November 9, 2017.

**Fiscal Impact:** None

**Recommendation:** Receive a report from staff on City of Milpitas Healthy Cities Dashboard and provide direction, as appropriate.

**Attachment:** Healthy Cities Initiative Frequently Asked Questions (FAQs)

#### **XV. ORDINANCE**

**12. Waive the Second Reading and Adopt Ordinance No. 296 Authorizing the Implementation of a Community Choice Aggregation Program for Milpitas (Staff Contact: Edesa Bitbadal, 408-586-3052)**

**Background:** Ordinance No. 296 was introduced upon first reading at the November 7, 2017 City Council meeting. A Community Choice Aggregation Program enables cities, counties, and joint powers authorities (comprised of municipalities) that do not operate municipally-owned electric utilities to pool the electricity demand within their jurisdictions in order to procure and/or generate electrical power supplies on behalf of its residents and businesses while maintaining the existing local electricity provider for electricity billing, transmission and distribution services. This ordinance is now ready for second reading and adoption.

**Recommendation:** Waive the second reading and adopt Ordinance No. 296.

**XVI. RESOLUTIONS**

- 13. Adopt Six Resolutions Authorizing the Operation of Property Assessed Clean Energy Financing Programs Within the City of Milpitas, Authorize the City Manager to Execute Agreements with Four Programs and Other Documents Necessary to Implement Property Assessed Clean Energy Financing Programs, and Find that the Actions are Exempt from Environmental Review under CEQA Guidelines Section 15378(b)(4) (Staff Contact: Edesa Bitbadal, 408-586-3052)**

**Background:** On September 19, 2017, the City Council directed staff to establish a greater level of consumer protection for Property Assessed Clean Energy (PACE) providers and establish these conditions as requirements for PACE Financing Programs in the City of Milpitas. The City shall only authorize those providers that have signed agreements. The City Council may adopt resolutions authorizing the operation of PACE Financing Programs within the City of Milpitas.

PACE programs provide property owners with a financing option to underwrite energy efficiency retrofits and renewable energy installations. PACE programs allow for the financing of these types of improvements without requiring a down payment or payment of the upfront capital cost of the improvement. The property owner repays the cost of the improvement “PACE loan” through their property tax bills over time for up to 20 years. In California, PACE programs are enabled through two different laws, Assembly Bill 811 (AB 811, 2008) and Senate Bill 555 (SB 555, 2011), with additional laws clarifying and expanding program parameters.

The City has no direct role in PACE program implementation or in the assessment transactions. Instead, the PACE provider arranges capital, administers programs, partners with a pre-approved contractor, and places special tax assessments in coordination with county tax collectors. To date, the only PACE provider authorized to operate in Milpitas is the California Statewide Communities Development Authority sponsored CaliforniaFIRST program. This was enabled through a resolution adopted by Council on January 5, 2010.

During the month of July 2017, city staff were approached by two PACE providers expressing interest in operating in Milpitas. Since then, staff have identified four possible PACE programs already authorized to operate in several nearby local jurisdictions. Should the City Council decide to add additional PACE programs to Milpitas, the Council must take actions to adopt a resolution to sponsor the program and join the associated Joint Powers Agreement, per the requirements of AB 811 and SB 555.

The City established operating conditions for PACE providers to successfully enable the City to achieve the greatest level of consumer protection. The conditions would be included in a Letter of Agreement, called the Letter of Agreement Regarding Operational Requirements for Property Assessed Clean Energy (PACE) Programs in the City of Milpitas, to be signed by the PACE providers in order for the City to sponsor the program. These conditions include:

- Provider will not charge differential interest rates or pre-payment penalties for early payoff of the PACE assessment.
- Provider has signed the Association of Bay Area Governments’ (ABAG) Regional Collaborative Services Agreement (RCSA) and will continue to implement the requirements of the RCSA. ABAG and PACE providers active in the Bay Area developed and agreed in 2016 to follow a set of best practices, called an Agreement for Collaborative Services for Property Energy Financing.



- Provider will provide to each Registered Contractor the City's requirement to obtain a business license, pay the applicable business license tax and on fingerprinting and will continue to provide the requirements on a yearly basis to ensure contractor oversight.

The City Council is recommended to adopt six resolutions authorizing the operation of the following PACE programs (Ygrene Energy Fund California LLC, California Home Energy Renovation Opportunity by Renovate America, Figtree Company, Inc., and California Statewide Communities Development Authority Open PACE) within the City of Milpitas, and authorize the City Manager to execute agreements and other documents necessary to implement PACE financing programs. These resolutions shall take effect once they are adopted only for a program administrator that has signed and agreed to the Letter of Agreement Regarding Operational Requirements for Property Assessed Clean Energy (PACE) Programs in the City of Milpitas and the Association of Bay Area Governments' Agreement for Collaborative Services.

Benefits in allowing more than one PACE provider to serve property owners from Milpitas are:

- Ability for the City to achieve climate action plan goals through reductions in greenhouse gas emissions.
- PACE program is 100% voluntary; property owners utilize this source of financing only if they choose.
- Creates competition in the marketplace and allows property owners to have a choice in their PACE provider.
- Each PACE provider has different interest rates and terms allowing property owners to have more choices.
- Each PACE provider covers a different range of energy, water and seismic upgrades, so more options means more types of projects can be eligible to the property owner.

**Fiscal Impact:** None. There is no direct cost to the City to join the various Joint Powers Agreement in order to sponsor PACE programs.

**Recommendations:**

1. Adopt two resolutions authorizing the inclusion of properties within the City's jurisdiction in the Ygrene program through the California Home Finance Authority Community Facilities District No. 2014-1 (Clean Energy) under SB 555 and under AB 811 and approving an amendment to the California Home Finance Authority/Golden State Finance Authority's Joint Powers Agreement (formerly the California Rural Home Mortgage Finance Authority ) adding the City of Milpitas as an Associate Member, and authorize the City Manager to execute the amendment to the California Home Finance Authority/Golden State Finance Authority's Joint Powers Agreement adding Milpitas as an Associate Member.
2. Adopt a resolution authorizing the inclusion of properties within the City's jurisdiction in the California Home Energy Renovation Opportunity Program and approving an amendment to the Western Riverside Council of Governments Joint Powers Agreement adding the City of Milpitas as an Associate Member, and authorize the City Manager to execute the Associate Member Agreement with the Western Riverside Council of Governments.
3. Adopt a resolution approving, authorizing, and directing execution of an amended and restated joint exercise of powers agreement relating to the California Statewide Communities Development Authority, and adopt a resolution authorizing the inclusion of properties within the territory of the City of Milpitas in the California Statewide Communities Development Authority Open PACE Program for those providers signing the City's Letter of Agreement and the ABAG Regional Agreement.

4. Adopt a resolution authorizing the City to join the FigTree Property Assessed Clean Energy Program, authorizing the California Enterprise Development Authority to conduct contractual assessment proceedings and levy contractual assessments within the territory of the City of Milpitas.
5. Find that the actions are Exempt from Environmental Review under CEQA Guidelines Section 15378(b)(4).

**Attachments:**

- a) PACE Provider Comparison Matrix
- b) Resolution for Ygrene per Senate Bill 555
- c) Resolution for Ygrene per Assembly Bill 811
- d) Resolution – Home Energy Renovation Opportunity/Western Riverside Council of Govts
- e) Resolution – CA Statewide Communities Development Authority Joint Exercise of Powers
- f) Resolution – CA Statewide Communities Development Authority Open PACE Program
- g) Resolution – Figtree

**14. Adopt a Resolution Authorizing Issuance, Sale and Delivery of Wastewater Revenue Refunding Bonds for the Purpose of Refinancing the Costs of Acquiring and Constructing Wastewater System Improvement Projects, Approving an Official Statement and Related Matters (Staff Contact: Will Fuentes, 408-586-3111)**

**Background:** As discussed at the October 17, 2017 City Council meeting and due to favorable market conditions, the City can refinance the 2006 Series A Certificates of Participation Sewer Financing (“2006 Certificates”) via the issuance, in one or more series, of bonds. The bonds would be issued by the City pursuant to applicable provisions of the California Government Code and be secured by a pledge of net revenues of the wastewater (sewer) system.

To obtain funds to finance certain capital projects that are part of the wastewater (sewer) system, the City previously entered into an Installment Sale Agreement, dated as of December 1, 2006, between the Milpitas Public Financing Authority and the City (the “2006 Agreement”). Payments by the City under the 2006 Agreement were secured by a pledge of net revenues of the wastewater (sewer) system, and used by the Authority as security for the execution and delivery of the 2006 Certificates, in the initial principal amount of \$9,535,000. The pledge of net revenues of the wastewater (sewer) system in the 2006 Agreement is similar to what is being proposed in the current refinancing.

Staff has determined, in consultation with its municipal advisor Fieldman, Rolapp & Associates, Inc. (FRA), that current bond market conditions are favorable for the issuance of refunding bonds to refinance the outstanding 2006 Certificates. Estimated average annual debt service savings based on current market conditions are approximately \$45,000 per year beginning in 2018 and \$379,000 total in Net Present Value Savings over the remaining nine year term of the refunded bonds. Any debt service savings as a result of the refunding will be a benefit to the City and the wastewater (sewer) system ratepayers.

City Council previously approved the refinancing of the 2006 Certificates and the financing team at the October 17, 2017 meeting. Approval of the proposed Resolution is the next step in the process and would authorize the issuance and sale of the City of Milpitas 2017 Wastewater Revenue Refunding Bonds (the “2017 Refunding Bonds”) to refund the outstanding 2006 Certificates. The Resolution will also approve execution of an Indenture of Trust and other legal documents described below:

**Indenture of Trust** – The 2017 Refunding Bonds shall be issued pursuant to and secured by the Indenture of Trust (the “Indenture”), between the City and U.S. Bank National Association, which will be appointed to act as trustee on the Bonds (the “Trustee”). The Indenture describes the terms of the 2017 Refunding Bonds and contains provisions relating

to the redemption, prepayment, defeasance, default and amendment of or to the Refunding Bonds. Pursuant to the Resolution, the City Council will authorize the delivery and performance by the City Manager, the Director of Financial Services or the designee of either (each, an “Authorized Officer”), each acting alone, to execute and deliver the Indenture in such form, together with such changes, insertions and deletions as may be approved by an Authorized Officer.

Bond Purchase Agreement – The Bond Purchase Agreement authorizes the sale of the 2017 Refunding Bonds to an Underwriter. Per City Council approval at the October 17, 2017 meeting, the City has chosen Stifel, Nicolaus & Company as its Underwriter for the 2017 Refunding Bonds. The Bond Purchase Agreement outlines the conditions under which the refunding bonds will be issued, and requires the City of Milpitas to make a number of covenants and representations.

Irrevocable Refunding Instructions – The 2006 Certificates shall be prepaid pursuant to Irrevocable Refunding Instructions (the “Refunding Instructions”). The Refunding Instructions are from the City of Milpitas to the Trustee (U.S. Bank National Association), acting as trustee for the 2006 Certificates (the “Prior Trustee”), and specify the terms and conditions to provide for the payment and redemption of the outstanding 2006 Certificates.

The Resolution further authorizes the Authorized Officers who are identified as City Manager, the Director of Financial Services, or the designee of either, to subsequently execute certain documents and take other official actions necessary for issuing the 2017 Refunding Bonds, on behalf of the City of Milpitas and the City Council.

Refunding Process – It is anticipated that the refunding will take approximately two months to complete. One key milestone is already completed and several more milestones to complete the refunding are:

- City Council’s approval to initiate the refunding of the 2006 Certificates and retain financing team (Completed – October 17, 2017)
- City Council approving a resolution to refund 2006 Certificates and approving legal documents (recommended action)
- Secure underlying credit ratings (November, 2017)
- Negotiated sale of 2017 Refunding Bonds (November 30, 2017)
- Bond closing and payoff of outstanding 2006 Certificates (December 14, 2017)

Preliminary Official Statement (POS) - The Preliminary Official Statement (POS) is still in draft form and staff is continuing to work with the City’s Municipal Advisor and the City’s Bond Counsel and Disclosure Counsel at Jones Hall to finalize the Preliminary Official Statement. Upon approval of the recommended resolution, the Authorized Officer on behalf of the City will deem the Preliminary Official Statement “final” pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the “Rule”) prior to its distribution to prospective purchasers of the Bonds.

The Authorized Officers will be authorized and directed to cause the Preliminary Official Statement to be brought into the form of a final Official Statement and to execute said final Official Statement, dated as of the date of the sale of the Bonds, and a statement that the facts contained in the final Official Statement, and any supplement or amendment thereto (which shall be deemed an original part thereof for the purpose of such statement) were, at the time of sale of the Bonds, true and correct in all material respects and that the final Official Statement did not, on the date of sale of the Bonds, and does not, as of the date of delivery of the Bonds, contain any untrue statement of a material fact with respect to the City or omit to state material facts with respect to the City required to be stated where necessary to make any statement made therein not misleading in the light of the circumstances under which it was made. The Authorized Officers shall take such further actions prior to the signing of the final

Official Statement as are deemed necessary or appropriate to verify the accuracy thereof. The execution of the final Official Statement, which shall be in substantially the form of the Preliminary Official Statement and which shall include such changes and additions thereto deemed advisable by the Authorized Officers and such information permitted to be excluded from the Preliminary Official Statement pursuant to the Rule, shall be conclusive evidence of the approval of the final Official Statement by the City. The final Official Statement, when prepared, is approved for distribution in connection with the offering and sale of the Bonds.

**Fiscal Impact:** Due to favorable market conditions, the City can refinance the 2006 Certificates via the issuance of the Bonds. Net present value (NPV) savings to the City are currently estimated at \$379,129 total or 7.38% of refunded bonds. These savings will be realized over the next nine years and be a benefit to the City and the wastewater (sewer) system ratepayers. Government Finance Officers Association (GFOA) guidance recommends pursuing refinancing opportunities when the NPV savings are greater than 3%. This refinancing exceeds that threshold by 4.38 percentage points. However, potential savings are based on market conditions as of the date of the staff report, and could change.

**Recommendation:** Adopt a resolution authorizing the issuance, sale and delivery of Wastewater Revenue Refunding Bonds for the purpose of refinancing the costs of acquiring and constructing Wastewater System Improvement Projects, approving an Official Statement, and related matters.

**Attachments:**

- a) Resolution
- b) Indenture of Trust
- c) Bond Purchase Agreement
- d) Irrevocable Refunding Instructions
- e) Preliminary Official Statement (POS)

**15. Adopt a Resolution Granting Final Acceptance of Public Improvements and Releasing Performance Bond for the Apex Apartment Project Located at 1102 South Abel Street by Milpitas Centria West, LLC, Tract No. 9773, Project No. 2583 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** On August 19, 2014, City Council adopted Resolution No. 8405 granting initial acceptance of public improvements installed, approved the reduction of the performance bond from \$1,000,000 to \$100,000 (10%), and authorized the start of the warranty period associated with the Apex Apartment Project No. 2583.

Public improvements installed included underground utilities and street improvements along the South Abel Street frontage, and a public park on a half-acre City parcel at the corner of South Abel Street and Great Mall Parkway. A final inspection of the improvements was made and they were found to be satisfactory. Pursuant to Milpitas Municipal Code Section XI-1-17.05 (a), the project is now ready for final acceptance and release of the performance bond.

**Fiscal Impact:** None. Construction was completed and the project is ready for City final acceptance.

**Recommendation:** Adopt a resolution granting final acceptance of public improvements and releasing performance bond for the Apex Apartments project located at 1102 South Abel Street by Milpitas Centria West, LLC, Tract No. 9773, Project No. 2583.

**Attachment:** Resolution

**16. Adopt a Resolution Granting Initial Acceptance, Release the Performance and Payment Bonds and Authorize Acting City Engineer to Issue the Notice of Final Acceptance After the One-Year Warranty Period for the Daniel Court Water Main and Services Replacement, Projects No. 7110 and No. 7131 (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** The City Council awarded the Daniel Court Water Main and Service Replacement, Projects No. 7110 and No. 7131 to D & D Pipelines, Inc. on June 20, 2017. The project provided for the installation of a new water main, service laterals, and the asphalt overlay of Daniel Court. The work was successfully completed on time and within budget this last August.

Staff recommends the City Council adopt a resolution granting initial acceptance of the project and to authorize the release of the contractor's faithful performance and payment bonds and initial the one-year warranty for the work. Staff also recommends the City Council authorize the City Engineer to issue the Notice of Final Acceptance after the one year warranty period without further City Council action, provided all warranty work is completed to the satisfaction of the City Engineer.

**Fiscal Impact:** None. Construction has been completed.

**Recommendation:** Adopt a resolution granting initial acceptance of the Daniel Court Water Main and Service Replacement, Projects No. 7110 and No. 7131, subject to a one year warranty period and releasing the faithful performance and payment bonds; and granting authorization to the City Engineer to issue the notice of final acceptance bond after the one-year warranty period without further City Council action.

**Attachment:** Resolution

**XVII. AGREEMENTS**

**17. Approve and Authorize the City Manager to Execute a Consultant Services Agreement with Bartle Wells Associates to Conduct a Comprehensive Water Rate and Cost of Service Study for the Amount Not to Exceed \$45,000 (Staff Contact: Tony Ndah, 408-586-2602)**

**Background:** In the fall of 2015, staff retained the services of Bartle Wells Associates to conduct a comprehensive water rate and cost of service study for the City. The study examined the City's water fixed and variable costs for operations and maintenance, and capital improvements. The 2015 water rates study recommended the following:

- Adopt American Water Works Association capacity standards to scale fixed charges with all meters 6-inches and larger paying the same rate.
- Implement a uniform rate instead of a tiered rate for the volumetric (i.e. quantity) charge.
- Implement long-term financing (bonds) to fund capital projects with long-term benefits.
- Recover capital costs through a capital program surcharge.

In December 2015, Council adopted a uniform water rates structure for the City, which was implemented over two years, with the first increase occurring in January 2016, and the second increase occurring in April 2016. In September 2016, Council approved the creation of a citizen's task force on water rates and one of the objectives of the task force was to explore the feasibility of alternative water rate structures. At a special council meeting on October 18, 2017, the Citizen's Task Force on Water Rates recommended that Council direct staff to

work with a consultant to develop a tiered water rate structure suitable for the City that does not violate the conditions of Proposition 218.

A scope of work for a comprehensive water rate and cost of service study was developed to include an update of the City's existing uniform rate structure and for a consultant to develop water rate alternatives based on a robust cost analysis for the City to evaluate. Since Bartle Wells Associates worked with the City on its most recent rate study in December 2015, that firm has existing knowledge of the City's water system, related capital improvements, operational needs, and the existing uniform rate structure. As such, Bartle Wells is most suited to provide the services needed to update the existing uniform rate and have the practical experience relative to the City's specific needs to prepare alternative rate structures for the City's consideration.

The proposed consultant services agreement with Bartle Wells Associates has a sum total not to exceed \$45,000.

**California Environmental Quality Act:** The action is not considered a project under CEQA as there will be no direct, or reasonably foreseeable indirect physical change in the environment.

**Fiscal Impact:** None. There are sufficient funds in the Utility Engineering operating budget through June 30, 2017.

**Recommendation:** Approve and authorize the City Manager to execute a Consultant Services Agreement with Bartle Wells Associates to conduct a Comprehensive Water Rate and Cost of Service Study for a sum not to exceed \$45,000.

**Attachment:** Agreement with Bartle Wells Associates

**18. Approve and Authorize the City Manager to Execute a Consultant Services Agreement with Crocker & Crocker for the Water Rate Community Engagement Program for the Amount Not to Exceed \$40,000 (Staff Contact: Tony Ndah, 408-586-2602)**

**Background:** The City is considering water rate adjustments in order to maintain proper revenue to cover operations and maintenance expenses, fund proposed capital improvements, and maintain adequate reserves in the water utility fund.

In December 2015, the City Council conducted a public hearing and adopted a new water rate structure for the City, and the new water rates were implemented in two phases, with the first increase occurring in January 2016, and the second increase occurring in April 2016. During the December 2015 public hearing, residents commented that the City should have done more outreach efforts to engage the public on the new water rates. In September 2016, Council created the Citizen's Task Force on Water Rates. At a special council meeting on October 18, 2017, the Task Force recommended that Council direct staff to work with a consultant to implement a community engagement program for water rates.

Staff developed a scope of work for consultant services to develop and implement a community outreach program for the City's upcoming water rate adjustment. The proposed public outreach and community engagement program will focus on developing strong community partnerships that reach residential and commercial audiences, stakeholder groups, and the media.

Crocker & Crocker has successfully performed similar functions for other cities in the area with the development and implementation of successful outreach programs that resonated with property owners, stakeholder groups, businesses, business organizations, and the media to provide information related to water rates and services. The proposed Crocker & Crocker

consultant services agreement has a total sum not to exceed \$40,000. This agreement will allow the firm assist staff with public outreach and education efforts in support of the contemplated water rate adjustments for the City.

**California Environmental Quality Act:** The action is not considered a project under CEQA as there will be no direct, or reasonably foreseeable indirect physical change in the environment.

**Fiscal Impact:** None. There are sufficient funds in the Utility Engineering operating budget through June 30, 2017.

**Recommendation:** Approve and authorize the City Manager to execute a consultant services agreement with Crocker & Crocker for the Water Rate Community Engagement Program for a sum not to exceed \$40,000.

**Attachment:** Agreement with Crocker & Crocker

**19. Consider the Subdivision Improvement Agreement, the Public Street Maintenance Agreement and the Fee Reimbursement Agreement for a 199-unit Senior Assisted Living Residential Development at 1504-1620 South Main Street by Milpitas Phase I, LP (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** On November 18, 2014, the City Council conditionally approved a Vesting Minor Tentative Map and a Site Development Permit for a 199-unit senior assisted living residential development at 1504-1620 South Main Street between Abel Street and Cedar Way by Milpitas Phase I, LP.

The Parcel Map for the vesting minor tentative map was approved by the Milpitas Planning Commission on September 27, 2017. The City Engineer has reviewed and approved public improvement plans (E-EN16-0149 and E-PI16-0002) pursuant to Milpitas Municipal Code XI-1-7.09-2. Public improvements to be constructed as part of this development include approximately 1,250 liner feet of new 12 inch sanitary sewer main line; new traffic signal facilities at the intersection of South Main Street and the new eastern extension Cedar Way; and two new public streets Costa Street and the eastern extension of Cedar Way with new utilities, curb, gutter, sidewalk, curb ramps, streetlight and street trees.

The developer has executed a Subdivision Improvement Agreement and provided improvement securities (in the total amount of \$2,742,000 for faithful performance and for labor and materials respectively) as required to guarantee completion of all required public improvements.

The developer has also executed a Public Street Maintenance Agreement as required by the project conditions for perpetual maintenance of the two new public streets. Additionally, the developer has executed a Fee Reimbursement Agreement as required by project condition for replacement of an existing sanitary sewer main line within South Main Street. The three aforementioned agreements have been approved by the City Attorney as to form and by the City Engineer as to substance.

**California Environmental Quality Act:** Consideration of these agreements would not be a project under CEQA as there will be no direct, or reasonably foreseeable indirect physical change in the environment.

**Fiscal Impact:** The fee reimbursement for replacement of the sanitary sewer main would be partially funded by Transit Area Specific Plan (TASP) fees and the Sewer Fund. The actual amount of the reimbursement will be based upon the actual cost for construction of the sanitary sewer main. The estimated reimbursement amount is \$1.3 million, and staff will

return to the City Council for approval of a budget appropriation once installation of the sewer main has been completed and the final cost of construction has been determined.

**Recommendation:** City Council shall consider the Subdivision Improvement Agreement, the Public Street Maintenance Agreement and the Fee Reimbursement Agreement for a 199-unit senior assisted living rental residential development known as Senior Lifestyle at 1504-1620 South Main Street by Milpitas Phase I, LP.

**Attachments:**

- a) Subdivision Improvement Agreement
- b) Public Street Maintenance Agreement
- c) Fee Reimbursement Agreement

**20. SUCCESSOR AGENCY**

**Authorize the Executive Director of the Successor Agency of the Former Milpitas Redevelopment Agency to Execute a Purchase & Sale Agreement with the Milpitas Community Museum for Property at 230 N. Main Street (APNs 028-34-001 through 028-34-094) (Staff Contact: Jane Corpus, 408-586-3125)**

**Background:** As a result of the Dissolution Act and the Settlement Agreement entered into with the State of California, the County of Santa Clara and other involved parties, a Long Range Property Management Plan (“LRPMP”) was approved by the Oversight Board that addresses the disposition and use of the real properties of the former Milpitas Redevelopment Agency. The LRPMP identifies four properties as assets of the Successor Agency that are required to be sold through a Request for Proposals (“RFP”) process. Three of the properties have previously been sold and the fourth is located at 230 N. Main Street (APN 028-34-001 through 028-34-094). On November 8, 2017, the Oversight Board approved the sale of the property to the Milpitas Community Museum, a nonprofit organization which made the highest offer of \$315,000. The Oversight Board also directs the Successor Agency to execute the Purchase & Sale Agreement within 15 days of its execution by the Milpitas Community Museum (“Buyer”). Included in the Council/Agency’s agenda packet is the executed agreement by the Buyer and the Buyer’s Proposal to Purchase.

**Fiscal Impact:** The City of Milpitas will receive approximately 16% of the net sale proceeds.

**Recommendation:** Authorize the Executive Director of the Successor Agency of the former Milpitas Redevelopment Agency to execute a purchase and sale agreement with the Milpitas Community Museum for property located at 230 N. Main Street (Assessor Parcel Numbers 028-34-001 through 028-34-094).

**Attachments:** Sale Agreement and Proposal to Purchase

**XVIII. REPORTS OF MAYOR & COUNCILMEMBERS – from the assigned Commissions, Committees and Agencies**

**XIX. ADJOURN JOINT MEETING**

**NEXT REGULAR CITY COUNCIL MEETING**  
**TUESDAY, DECEMBER 5, 2017**